statutes of the United States, it seems that it would be within the power of Congress to determine in what cases, and to what extent, the power to punish summarily for contempt might be exercised. See *Ex Parte Robinson*, 19 Wall. 505.

SPECIAL ASSESSMENTS—RIGHT OF TAXPAYER TO DEFEND UPON THE GROUND THAT IMPROVEMENTS WERE NOT PROPERLY MADE.—Two interesting cases involving the right of a property owner to defend against a special assessment on the ground that the improvement, for which the assessment is made, was not constructed in accordance with the specifications prescribed, were recently before the supreme court of Illinois. In the first case, the work, which was a street pavement, was improperly done, and protests against it had been made on behalf of the property owners, though no legal steps were taken to restrain its progress or to compel a faithful performance of the contract. The officers charged with the duty nevertheless accepted the performance, and a property owner resisted payment on the ground that he had not secured the benefit contemplated. Notwithstanding the defect, the pavement was still of the *kind* determined upon, though it was not so good as it should have been. "If the improvement is the one provided for in the ordinance," said the court, "and it has been completed and accepted by the city authorities invested with the power to determine whether the contract has been complied with, the objection that it was not completed in compliance with the terms of the ordinance is not available. *Ricketts* v. *Hyde Park*, 85 Ill. 110; *Fisher* v. *People*, 157 Ill. 85, 41 N. E. 15; *People* v. *Green*, 158 Ill. 594, 42 N. E. 163; COOLEY TAX'N, 468." Payment in the case was therefore decreed. *People* v. *Whidden* (1901), 191 Ill. 374, 61 N. E. 133, 56 L. R. A. 905. In the second case, however, which arose in the same way, it was urged that the defects were so great as to result in the construction of a pavement of an entirely different kind, *i. e.*, a mere dirt roadway instead of a macadam pavement, and it was held that proof of such a substitution would defeat a recovery of the tax. "The rule that objections to the manner in which an improvement is completed," said the court, "are not available on the application for judgment for sale does not extend to cases where the improvement authorized is changed for another, or where the city authorities accept a different improvement from the one for which the assessment was levied." *Gage* v. *People* (1901), 193 Ill. 316, 61 N. E. 1045, 56 L. R. A. 916.

JUDGMENTS—ESTOPPEL TO MAINTAIN SUBSEQUENT ACTION FOR DIFFERENT CAUSE.—A case was recently decided in the United States Circuit Court of Appeals in the eighth circuit, involving a somewhat difficult point as to the effect of a judgment as an estoppel to a subsequent action between the same parties on a different cause. It is well settled that a judgment is an estoppel to a subsequent action for a *different* cause only as to the matters directly in issue in the former action, therein contested, and necessarily determined. See *Cromwell* v. *County of Sac* (1876), 94 U. S. (4 Otto) 351. It is also clear that if there were several issues in the former action, a finding on any one of which would warrant the judgment rendered therein, proof of that judgment would not estop the defeated party in any subsequent action for a different cause as to any of the issues tried in the former action, unless it

were proved in some way which issue it was on which the former action was actually determined. Decisions on this point will be found reviewed in *Soderberg* v. *Armstrong* (June 30, 1902, Nev. C. C.), 116 Fed. Rep. 709; and *Kitson* v. *Farwell* (1890), 132 Ill. 327, 23 N. E. 1024. In the case now being considered the issues in the former action, though several in number, and any one of them sufficient to warrant the judgment, were all in issue in the last action and each equally and independently a complete defense. Under these facts it was objected that the finding in the first action was a general verdict, and that there was nothing to show on which of the issues the verdict was in fact found in favor of the successful party; and therefore that there was no estoppel as to any of them. But the court held that the objection was not well taken, because the verdict must have been found on some one of the issues, and that it did not matter which one it was, as any one of them would be a bar to the present action. *Aetna Life Ins. Co.* v. *Board of Com'rs* (Aug. 4, 1902), 117 Fed. Rep. 82. The court reviews the former decisions at considerable length.

ANTI-TRUST ACT—DISCRIMINATION IN FAVOR OF CERTAIN CLASSES.—An important point, not however brought to the surface, either in the headnote or the index of the official report, was involved in the recent case of *Connolly* v. *Union Sewer Pipe Co.* decided by the Supreme Court of the United States, (184 U. S. 540, 22 Sup. Ct. Rep. 431). The Trust statute of Illinois of 1893, after defining and forbidding trusts, and imposing penalties upon their creation and continuance, proceeding to declare (§ 9) that "the provisions of this act shall not apply to agricultural products or live stock, while in the hands of the producer or raiser." The Michigan anti-trust act of 1889, sec. 6, likewise contains this provision, but extends it further by declaring that it shall not apply "to the services of laborers or artisans who are formed into societies or organizations for the benefit and protection of their members." Exceptions substantially similar are found in the acts of several of the other states.

It was urged against the statute of Illinois, that, by the inclusion of § 9, it violated the provisions of the Fourteenth Amendment to the Constitution of the United States by denying to the classes not excepted, the equal protection of the laws, and this contention was sustained. The court further held that § 9 was evidently such an integral part of the whole statute that it could not be presumed that the act would have been adopted without this provision, and that the whole statute must therefore fail. Whether the act was also within the prohibition against the deprivation of property without due process of law, the court deemed it unnecessary to inquire. Mr. Justice McKenna alone dissented.

COURTS—CONFLICT OF JURISDICTION—CREDITOR'S BILL.—It is quite generally agreed that property held by executors and administrators cannot be levied on under attachments and executions issuing from courts other than the one appointing or having control of the executor or administrator and the administration of the estate. The reason is that no court can interfere with the affairs in any other court unless it be authorized by law to exercise such authority in such cases by appeal or other supervision. For the